

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 1

Filed by: Michael P. Tierney  
Administrative Patent Judge  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
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Filed  
June 28, 2001



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

**MAILED**

RANDOLPH NOELLE  
(Application 08/742,480),

**JUN 29 2001**

Junior Party,

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

v.

RICHARD J. ARMITAGE, WILLIAM C. FANSLOW,  
MELANIE K. SPRIGGS  
(Application 09/322,021),

Senior Party.

Patent Interference No. 104,724 (MPT)

**RECEIVED**  
**DEC 12 2005**  
**TECH CENTER 1600/2900**

**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Michael P. Tierney has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for 10:00 a.m. on August 22, 2001 (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

**Junior Party**

Named inventors: Randolph Noelle, Plainsfield, NH

Application: U.S. Application 08/742,480, filed November 1, 1996

Title: CD40CR Receptor and Ligands Thereof

Assignee: The Trustees of Dartmouth College

Accorded Benefit: i) U.S. Application No. 08/338,975, filed November 14, 1994, now abandoned; and

ii) U.S. Application No. 07/835,799, filed February 14, 1992, now abandoned.

Attorneys: See last page

Address: See last page

Senior Party -

Named inventors: Richard J. Armitage, Bainbridge Island, WA  
William C. Fanslow, Federal Way, WA  
Melanie K. Spriggs, Seattle, WA

Application: 09/322,021, filed May 28, 1999

Title: Monoclonal Antibodies to CD40 Ligand, Pharmaceutical  
Composition Comprising the Same and Hybridomas Producing the  
Same

Assignee: Immunex Corporation

Accorded Benefit: i) U.S. Application No. 08/249,189, filed May 24, 1994,  
issued as U.S. Patent No. 5,961,974  
ii) U.S. Application No. 07/969,703, filed October 23, 1992,  
now abandoned  
iii) U.S. Application No. 07/805,723, filed December 5, 1991,  
now abandoned  
iv) U.S. Application No. 07/783,707, filed October 25, 1991,  
now abandoned

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

A monoclonal antibody or fragment thereof according to claim 42 of U.S. Application No. 08/742,480

or

A monoclonal antibody according to claim 28 of U.S. Application No. 09/322,021

or

A pharmaceutical composition according to claim 29 of U.S. Application No. 09/322,021

or

A hybridoma according to claim 30 of U.S. Application No. 09/322,021.

The claims of the parties are:

Noelle, U.S. Application 08/742,480:	42, 43, 45-48, 50-57, 59-60
Armitage, U.S. Application 09/322,021:	28, 29, 30

The claims of the parties which correspond to Count 1 are:

Noelle, U.S. Application 08/742,480:	42, 43, 46-48, 50, 54, 57
Armitage, U.S. Application 09/322,021:	28, 29, 30

The claims of the parties which **do not** correspond to Count 1, and therefore are not involved in the interference, are:

Noelle, U.S. Application 08/742,480:	45, 51-53, 55, 56, 59-60
Armitage, U.S. Application 09/322,021:	None

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See § 18 of the  
STANDING ORDER.

Paper \_\_\_\_\_

Filed on behalf of [name of party]  
By: Name of lead counsel, Esq.  
Name of backup counsel, Esq.  
Street address  
City, State, and Zip-Code  
Tel: \_\_\_\_\_  
Fax: \_\_\_\_\_

## UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

RANDOLPH NOELLE  
(Application 08/742,480),

Junior Party,

**V.**

RICHARD J. ARMITAGE, WILLIAM C. FANSLOW,  
MELANIE K. SPRIGGS  
(Application 09/322,021),

Senior Party.

Patent Interference No. 104,724

TITLE OF PAPER

<sup>1</sup> Leave a blank line because the board assigns the paper number.

## **Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1. § 7: date for identifying lead and backup counsel. ✓
2. § 8: date for identifying any real party in interest. ✓
3. § 9: date for requesting copies of involved and benefit applications and patents. ✓
4. § 17: date for filing list of proposed preliminary motions.
5. § 19: date for accomplishing certain discovery.
6. § 20: date for filing clean copy of claims. ✓
7. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation. ✓
8. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. § 33: date for objecting to admissibility of evidence.
10. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. § 35: dates when cross-examination can take place.
12. § 45: dates for taking action with respect to settlement discussions

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference 104,724

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

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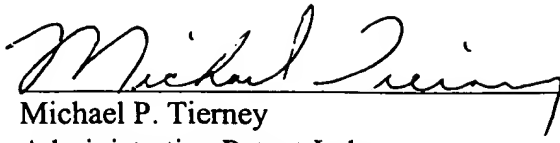
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Telephone, including area code: \_\_\_\_\_



**Part J. Signature of administrative patent judge**

  
Michael P. Tierney  
Administrative Patent Judge

Date: 6/28/01  
Arlington, VA

Enc.<sup>2</sup>

Copy of STANDING ORDER

Copy of order used for setting times for taking action in the preliminary motion phase of the interference

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

Copy of Noelle, U.S. Application 08/742,480 claims 42, 43, 45-48, 50-57, 59-60

Copy of Armitage, U.S. Application 09/322,021 claims 28, 29, 30

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<sup>2</sup>No Rule 690(b) or Form PTO-850 is enclosed.

cc (via Federal Express):

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